STATE OF MICHIGAN

COURT OF APPEALS

In re S S WHITE, Minor.

UNPUBLISHED
October 13, 2016

No. 331325
Wayne Circuit Court
Family Division
LC No. 14-516027-NA

Before: FORT HOOD, P.J., and GLEICHER and O'BRIEN, JJ.

PER CURIAM.

Respondent appeals as of right an order terminating her parental rights to her daughter, SSW, pursuant to MCL 712A.19b(a)(*ii*), (c)(*i*), (g), and (j). We affirm.

Respondent argues that the trial court erred when it determined that the Department of Health and Human Services (DHHS) had made reasonable efforts toward reunification prior to seeking termination. We disagree.

We review the trial court's findings of fact, including a finding that DHHS made reasonable efforts toward reunification, for clear error. *In re Fried*, 266 Mich App 535, 541-543; 702 NW2d 192 (2005). A decision is clearly erroneous only when this Court is left with a definite and firm conviction that a mistake has been made. *In re Mason*, 486 Mich 142, 152; 782 NW2d 747 (2010).

"In general, when a child is removed from the parents' custody, the petitioner is required to make reasonable efforts to rectify the conditions that caused the child's removal by adopting a service plan." *In re Fried*, 266 Mich App at 542; MCL 712A.19a(2). "The adequacy of the petitioner's efforts to provide services may bear on whether there is sufficient evidence to terminate a parent's rights." *In re Rood*, 483 Mich 73, 89; 763 NW2d 587 (2009). Generally, a petitioner may satisfy the reasonable effort requirement by adopting and implementing a service plan. See MCL 712A.18f(3); *Mason*, 486 Mich at 156. If DHHS "fails to take into account the parents' limitations or disabilities and make any reasonable accommodations, then it cannot be found that reasonable efforts were made to reunite the family." *In re Terry*, 240 Mich App 14, 26; 610 NW2d 563 (2000). However, "[w]hile [DHHS] has a responsibility to expend reasonable efforts to provide services to secure reunification, there exists a commensurate responsibility on the part of respondents to participate in the services that are offered." *In re Frey*, 297 Mich App 242, 248; 824 NW2d 569 (2012).

The trial court did not err in concluding that DHHS had made reasonable efforts toward reunification. Here, DHHS provided respondent with a number of opportunities for treatment from the outset. At a Family Team Meeting held only days after SSW's birth and removal, DHHS provided respondent with a treatment plan including such services as psychological testing, parenting classes, individual therapy, and weekly parenting time. Respondent failed to participate in or benefit from any of these services. Between SSW's removal and the first of her two termination hearings, nine full months later, respondent did not attempt to visit her child a single time. Of the seven court hearings leading up to the initial termination hearing, respondent attended one in person, was completely absent from three, and attended the other three by speaker phone from her residence in South Carolina. Respondent failed to maintain contact with DHHS, and DHHS representatives could not reach respondent despite repeated attempts to call her or mail correspondence. Respondent's failures were compounded by the fact that DHHS offered respondent bus tickets to travel to her Michigan services, visitations, and court hearings. Although DHHS did not provide interstate bus tickets to allow respondent to travel from South Carolina to Michigan, DHHS was not reasonably required to do so, especially in light of respondent's failure to comply with the services she had been ordered to complete in South Carolina.

After the trial court denied DHHS's initial request for termination in January 2015, DHHS reinstated the treatment plan as it was prepared at the March 2014 Family Team Meeting. In addition to the services described, the treatment plan required respondent to complete a Clinic for Child Study, provide proof of suitable housing and income, maintain weekly contact with DHHS, and attend all court hearings. According to DHHS representatives, respondent initially indicated an intent to remain in Michigan to comply with the treatment plan. Indeed, she remained in the state for about a month after the termination hearing, attending five out of about eight scheduled visitations. She also attended her first scheduled parenting class, and agreed to complete a Clinic for Child Study in March 2015. However, on the day of her disposition hearing, February 23, 2015, respondent phoned in to the hearing from a bus still parked in Detroit, claiming that she had not had transportation to attend the hearing and no longer had a place to stay in Michigan. Despite warnings from DHHS, her own attorney, and the trial court about the difficulties of complying with her treatment plan in South Carolina, respondent returned to South Carolina that day, and never returned to Michigan. She did not complete the Clinic for Child Study as planned, and her parenting classes were terminated for lack of participation.

It is clear that DHHS made every reasonable effort to provide respondent with appropriate services, and respondent simply failed to meet her commensurate responsibility to participate in and benefit from those services. *Id*. Despite respondent's assertions to the contrary, DHHS representatives testified that they offered to help respondent obtain services in South Carolina, and respondent insisted that she would return to Michigan and complete services here. Further, respondent exacerbated her own struggle by not maintaining weekly contact, as ordered, with DHHS. Indeed, respondent would wait months before contacting DHHS and any attempts by DHHS to organize services for respondent in South Carolina were futile without contact and confirmation from respondent. Efforts by DHHS to accommodate respondent's treatment in another state were especially reasonable in light of their contact with representatives of South Carolina's Social Services Department, through which they learned that respondent was

also in noncompliance with her treatment plan there, was failing to show up to court hearings, and was difficult, if not impossible, to contact.

Contrary to respondent's argument on appeal, reasonable efforts did not require the trial court to transfer the case to South Carolina or DHHS to obtain services through the Interstate Compact for the Placement of Children (ICPC). The lower court properly exercised jurisdiction over SSW, born in Wayne County, Michigan by respondent's own design, and was not required to either send the child back to South Carolina or provide services for respondent in that state. MCL 712A.2(b). Respondent makes much of DHHS's failure to obtain "an ICPC," to help respondent receive services in South Carolina. While respondent's attorney requested a case transfer and "an ICPC" several times throughout the lower court proceedings, her requests were properly deemed meritless. Respondent misunderstands the purpose of the ICPC, which is to provide for safe placement of children, in cases of transferred custody or adoption, in another state. MCL 3.711. The ICPC does not apply in this case, as the child was born in Michigan. MCL 3.711, Article VIII. Further, even if it applied, the only placement service provided for under the ICPC is a home assessment. MCL 3.711. Although not required to do so, DHHS did attempt to coordinate with South Carolina officials through the ICPC to obtain an assessment of respondent's housing. The South Carolina agent's refusal to conduct such an assessment without 75% treatment plan compliance by respondent was not "ludicrous," as respondent contends. Without even minimal compliance with the treatment plan, there was no chance of SSW's placement in respondent's home. It was not unreasonable to forego a home assessment until respondent had proved a likelihood of completion of any of the services in her plan.

It is true that three weeks before the termination hearing, respondent contacted DHHS and finally requested assistance locating parenting classes in South Carolina. Although DHHS representatives failed to locate appropriate classes before the termination hearing, their failure was not unreasonable. One representative testified that she made several attempts to place respondent in parenting classes but that, due to the holidays and the expedited nature of the request, she was unable to place respondent during those three weeks. Her efforts were reasonable. Respondent was afforded approximately 22 months to comply with the requirements of her treatment plan, and she repeatedly failed to do so. The trial court did not clearly err in finding that reasonable efforts were made to reunify respondent with her child.

Affirmed.

/s/ Karen M. Fort Hood
/s/ Elizabeth L. Gleicher
/s/ Colleen A. O'Brien